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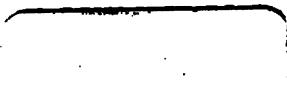
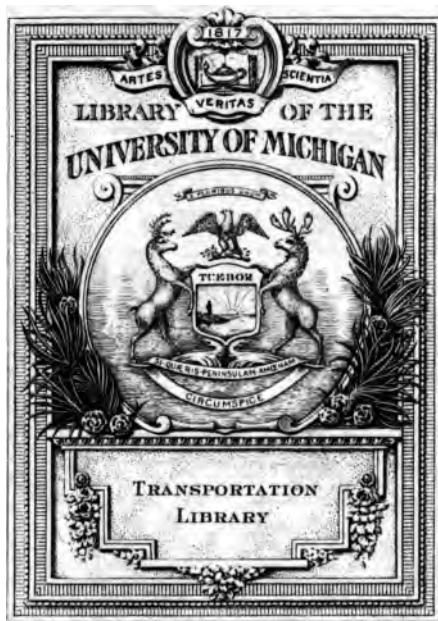
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Carter, Samuel

# Railway Legislation.

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THE RAILWAY COMPANIES

AND

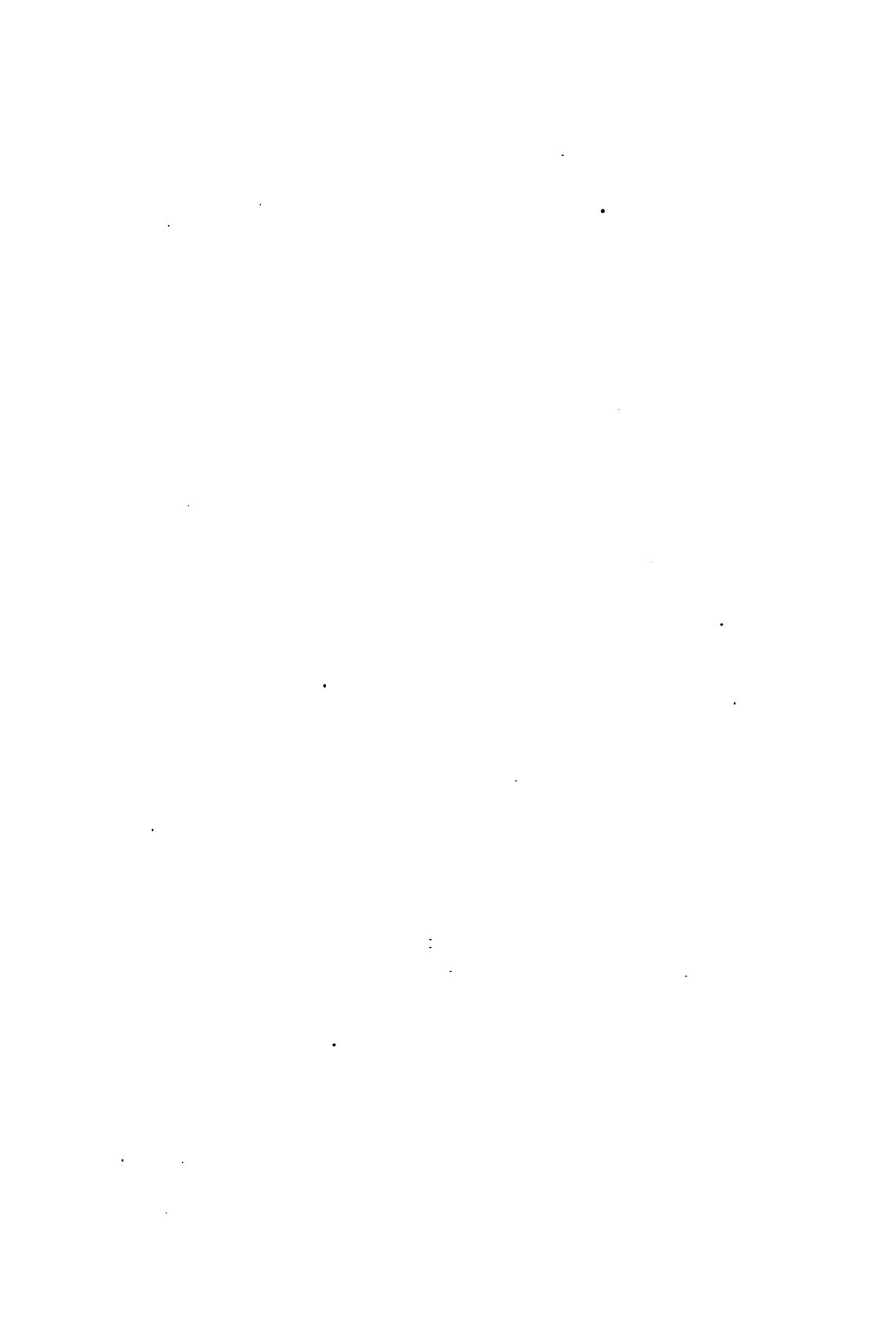
THE RAILWAY COMMISSIONERS.

PROPOSED TRANSFER TO THE COMMISSIONERS OF  
THE POWER OF FIXING RATES ON RAILWAYS  
AND REPEAL OF EXISTING PARLIAMENTARY RATES.

LETTERS AND CORRESPONDENCE.

WESTMINSTER:  
NICHOLS AND SONS, 25, PARLIAMENT STREET.

1874.



*May M*  
12-2-32  
Transport.

## I N D E X.

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## I. To Railway Shareholders and Holders of Debentures and Debenture Stock.

**GENTLEMEN,**

I beg to call your attention to a recent attempt which, if ever successful, must go far to shake public confidence in Railways as an investment.

On the 18th of last month, in the House of Commons when in Committee on what is called "The Board of Trade Arbitrations, Enquiries, &c. Bill" (see the "Times" of the 19th May),

Mr. WAIT moved to insert, after clause 8, the following clause :—

Whereas by Section 11 of "The Regulation of Railways Act, 1873," it is enacted that the facilities therein mentioned shall include the due and reasonable receiving, forwarding, and delivering by every Railway Company and Canal Company, and Railway and Canal Company, at the request of any such other Company, of through traffic to or from the Railway or Canal of any other such Company, at through rates. And whereas it is expedient to amend and enlarge the said enactment: Be it therefore Enacted, That, from and after the passing of this Act, the said facilities shall include the due and reasonable receiving, forwarding, and delivering by every Railway Company and Canal Company, and Railway and Canal Company, at the request of any other such Company, or on the application of any number of not less than ten persons interested or aggrieved, of through traffic at through rates; and the sub-sections from 1 to 9, inclusive, of the 11th section, so far as they are applicable, and, *mutatis mutandis*, shall apply to the said persons making such application.

Mr. RATHBONE "urged the Government to accept the Clause."

Mr. MONK, the colleague of Mr. Wait, "trusted the Government would accept the Clause."

Mr. WHITWELL "supported the Clause," and on a division 51 members voted for it; ultimately it was lost by a majority of 79.

Mr. C. DENISON, who objected to the Clause, said it was the "resuscitation" of a proposition brought forward last Session by the member for Sheffield (Mr. Mundella), and negatived by the House.

But propositions dealing with Railway Companies in the

name of the public interest, and repeated Session after Session, may get themselves carried, sooner or later, however open to objection, if they are not closely watched. I will now state the effect of Mr. Wait's Clause.

It must be borne in mind that every Railway Company, on obtaining its Act, obtained also, as part of it, the power of charging rates limited to a specified scale. It was a sort of bargain with Parliament—spend your money if you like, and run the risk—all we can do is to empower you to charge certain fixed rates for the use of your line; and on the faith of such arrangements nearly 600 millions of money have been spent, of which about 150 millions have taken the shape of mortgage bonds, or debenture stock, usually considered rather a safe investment; but the rates are all there is to depend on.

By Mr. Wait's clause any "10 persons interested or aggrieved," might propose to the Railway Commissioners a scale of "through rates" at which the Railway Company should be bound to carry their "through traffic," and the Commissioners might "refuse, or allow" such scale; that is to say, the Parliamentary rates granted by any Railway Act could no longer be levied, and the Railway Company would thenceforth be compelled to carry all through traffic at any rates which might be "allowed" by the Commissioners, whose powers in this respect (with a single qualification of no practical value at all) would be unlimited, except indeed that they could only reduce but could not increase the Parliamentary rates,—their discretion would be absolute, and from their decision there would be no appeal. Thus, in effect, the rates and fares authorized by Parliament for through traffic, on every Railway in the kingdom would be repealed, and nothing left in their stead but what the three Commissioners might think right to allow as a "due and reasonable facility in the interest of the public."

It is not too much to say that no part whatever of the 600 millions would have been spent in Railways on such conditions. It is difficult to understand how a proposal of such manifest injustice could have found any support in Parliament, or why any apprehension need exist as to the success of any renewed attempt. You will soon see wherein the danger consists.

By "The Railway and Canal Traffic Act 1854," section 2, every Company whose line forms part of a continuous Railway communication is bound to afford what are called "due and reasonable facilities for receiving and forwarding" all the traffic arriving by one Railway, and intended to pass continuously by another, without any unreasonable delay, and without any preference or advantage in favour of any particular person or Company, "and so that no obstruction be offered to the public desirous of using the Railway as a continuous line of communication." The Court of Common Pleas were to enforce the provisions of this Act, in which the term "facilities" did not, and was not intended to, include charges on the line, and the Parliamentary rates and fares of the Companies remained untouched.

Then came the Act of last Session, called the "Regulation of Railways Act, 1873," creating and appointing three Commissioners of Railways, to whom the powers of the Common Pleas under the Act of 1854, and other powers previously vested in the Board of Trade, were transferred. After setting out the Enactment (Section 2) of the Act of 1854—as to facilities,—comes the preamble of this Act of 1873, which, with the Enactment founded upon it, is in these words: "And whereas it is expedient to explain and amend the said Enactment (*i.e.* Section 2 of the Act of 1854): Be it therefore Enacted, That, subject as hereinafter mentioned, the said facilities to be so afforded are hereby declared to, and shall, include the due and reasonable receiving, forwarding, and delivering by every Railway Company and Canal Company, at the request of any other such Company, of through traffic to, and from, the Railway or Canal of any other such Company, at through rates, tolls, or fares (in this Act referred to as through rates), provided as follows,"—and then come nine subsections prescribing how the through rates are to be fixed. The Company "requiring" traffic to be forwarded are to give written notice of the through rate at which they propose any other Company shall be compelled to carry on the traffic over its line,—and if the latter Company object to the proposed rate the Commissioners are to consider whether the granting of the rate is a "due and reasonable facility in the

"interest of the public,"—and to "refuse, or allow, the rate accordingly." They are to take into consideration (of course) all the circumstances of the case, and they are "not to compel any Company to accept lower mileage rates than the mileage rates which such Company may for the time being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route," but with this single qualification, which can have but a very isolated and limited application, and which I state at full length that there may be no misapprehension, the power of the Commissioners to deal with rates is absolute, unlimited, and without appeal; and, that there may be no possible mistake, Clause 12 of the Act of 1873 declares that the Commissioners shall have full power to decide that any proposed through-rate is "due and reasonable," " notwithstanding that a less amount may be allotted to any forwarding Company out of such through-rate than the maximum rate such Company is entitled to charge." Such is "The Regulation of Railways Act 1873"—the explanation and amendment of Section 2 of the Act of 1854 being that the "said facilities," which did not, and were not intended to, include rates at all, are "declared" to include the forwarding through traffic "at through rates;" and by those three words, with no allusion in the Preamble, or elsewhere, to their actual meaning and effect, the Parliamentary rates and tolls on every Railway in the Kingdom, so far as through traffic is concerned, and in questions as to "through rates" between one Railway Company and another, are in effect repealed.

Thus framed by the department of Government charged with the Bill in a manner which (to say the least) was calculated to disarm suspicion, the real effect of the Bill seems to have been little appreciated, and the Second Reading in the Commons took place without opposition from any quarter—and, with some comparatively slight modifications in the clauses, the Act passed both Houses as it now stands. It was brought in by the Board of Trade on the Report of a Joint Committee of both Houses in the previous Session. In their Report, under the head of "New Tribunal," is the following very important passage: "It has

" been proposed to commit to some such Tribunal the revision of the rates and charges of the Companies—but this cannot be done unless the tribunal is invested with absolute and arbitrary powers, *which is out of the question*—or, " unless some rules can be laid down by Parliament for its guidance—and it has been shown how impracticable it is to lay down any such rules. It is, however, the opinion of the Committee that such a tribunal should be constituted, and that " there are *other* important functions which should be entrusted " to it : " and then " ten other functions " are described, the fifth function being to see that proper " facilities " are given for forwarding traffic under the Act of 1854 : subsequently the sixteenth " conclusion " of the Report is that the Act of 1854 should be " explained " by enabling every Railway Company to make through rates over any other Company's line, with power to the new tribunal to decide questions in dispute between the Companies as to such through rates. The joint Committee, of course, did not intend to give, thus incidentally, to the Commissioners the absolute and arbitrary powers which they had already declared to be " out " of the question ; " but the Act of 1854 is so " explained and " amended " by the Act of 1873 as to give a power which would appear to amount to much the same thing—but then it is only in a particular case. It is confined to questions between Railway Companies as to through rates which they may think fair and reasonable over each other's lines; and, probably, no Company would wish even to propose a scale of absolutely unremunerative rates over the line of another Company. The powers of the Act of 1873, stringent as they are, and efficacious, as between the Railway Companies themselves, for the purpose of preventing one Company from putting obstructions in the way of another, are very far short of absolute and arbitrary powers for a general revision of rates.

And now the danger of the renewal of Mr. Wait's proposal may be seen. What reason can there be, it is said, for confining the power to set the Commissioners in motion to Railway Companies who may not agree on what terms the one should use the line of the other? If the principle be admitted that through rates ought, in any case, no longer to be fixed by the Directors

of Railways, but by the Commissioners, why not let the public call the Commissioners into action (any ten persons), and state on what scale of rates they think the Companies ought to carry their traffic?

The reason is that it would amount to a simple confiscation\* of property created by, and held under the sanction of, the law, and it was for this reason the "Joint Committee" denied to the Commissioners, in language of unusual strength, a general power of revision of rates, though recommending that they should exercise the "other function" of enforcing through rates between the different Railways on any line of through communication, and settling disputes between the Companies as to the amount of these rates.

Mr. Wait's clause would have given to the Commissioners the "absolute and arbitrary powers" which are "out of the question;" but, though most properly rejected by the House of Commons, it will be renewed, probably with some modification which may profess to mitigate its effect, and Members for great cities, like Mr. Rathbone, may again "urge the Government to accept the clause." The late Government have been accused of "harrassing every interest." If the present Government act on the advice of Mr. Rathbone, he will, undoubtedly, have given them a ready opportunity to harrass a very considerable interest. Any renewal of Mr. Wait's proposal, in whatever shape, which adopts the same principle, ought to meet the same fate; but it is very necessary that the Shareholders and Debenture-holders should know what is going on, and defend themselves as other people do when

\* From Report of the Joint Committee "Periodical Revision of Rates and Fares," p. xxxv.:—

" But a still more serious question with respect to periodical revision is the question 'On what principle is it to be performed?' *If it is to be purely arbitrary, if no rule is to be laid down to guide the revisers, the power of revision will amount to a power to confiscate the property of the Companies. It is not likely that Parliament would attempt to exercise any such power itself,—still less, that it would confer such a power on any subordinate authority.*"

their interests are attacked. To authorize any individual member of the public to appeal to the Commissioners for a revision of rates involves a principle which is inconsistent with the provisions of the various Acts of Parliament, on the faith of which a vast capital has been expended, and so, apparently, thought the Joint Committee of both Houses in 1872. That capital would never have been advanced but for the reliance, always felt in this country, on the good faith of the Legislature, by those who have been induced to risk their money by the concession of certain definite powers, and persons interested in Railways can only express their hope that, in this instance, Parliament will sanction nothing which may shake public confidence in the stability of a great property, created under clearly defined Parliamentary enactments.

The Report of the Joint Committee refers to the possible "case of the intention of Parliament at any future time to purchase the Railways;" it would, probably, get them much cheaper if any clause embodying the principle of Mr. Wait's should become law.

The Joint Committee of 1872\* was a dignified and important body. To give effect to their Report the Act of 1873, announced in a paragraph of the Queen's Speech, was passed by the Government. It is not yet a year old—the Commissioners have only been appointed a few months, when Mr. Wait makes his ill-considered proposal to amend it by giving the Commissioners the very powers so emphatically denied to them by the Joint Committee.

We may confidently hope that the Government, who opposed Mr. Wait's clause, will continue to maintain the principle of the Report of the Joint Committee, and not consent to any amendment of the Act of 1873, until, at all events, its necessity has been

\* The members of the Joint Committee were—

LORDS.

Lord President.  
Marquis of Salisbury.  
Earl of Derby.  
Earl Cowper.  
Lord Redesdale.  
Lord Belper.

COMMONS.

President of the Board of Trade.  
Mr. Ward Hunt.  
Mr. R. Assheton Cross.  
Mr. Childers.  
Mr. Stephen Cave.  
Mr. J. G. Dodson.

established before some competent tribunal, who would hear evidence on both sides, and ascertain whether the complaints of certain private traders, on which Mr. Wait's clause was said to have been based, are well founded or not, and, if needful, suggest some fitting remedy.

I venture to address you on this subject, being myself one of your body. At one time I was connected professionally with Railway Companies, but for some years past my only connection with them has been that of a shareholder.

I am, Gentlemen, your obedient Servant,  
Battle, 3rd June, 1874. S. CARTER.

#### POSTSCRIPT.

SINCE the above was written, and while "The Board of Trade Arbitrations, Enquiries, &c. Bill" was still before the House of Commons, the department of Government in charge of that Bill, who had opposed Mr. Wait's clause, suggested the adoption, and insertion in their Bill of certain other clauses dealing with the same subject, prepared by another Member of the House. The first of these clauses embodied the principle of Mr. Wait's clause, but instead of "ten persons interested," it proposed that "any person interested" should be empowered to call the Commissioners into action. This clause was to be followed by another, with qualifying provisoies purporting to be, and doubtless designed, for the protection of the Railway Companies, to whom these clauses were sent for consideration.

The representatives of the Companies declared themselves unable to recognize in any way the principle of Mr. Wait's clause, or to see any real protection in the provisoies when once that principle had been admitted. The clauses have not been pressed by the Government on this occasion, it being understood to be their opinion that *the matter may stand over for another year*. Meantime it behoves us all, especially those entrusted with the direction of our affairs, to consider in what manner a danger can be met that threatens the very existence of our property.

S. C.  
Battle, 27th June, 1874.

## II.

*From "THE DAILY NEWS" of October 1, 1874.*

### RAILWAY RATES AND TOLLS.

TO THE EDITOR OF "THE DAILY NEWS."

SIR,—In your number of Thursday the 24th is a report of the proceedings of the "Associated Chambers of Commerce" at Newcastle-on Tyne, presided over by the hon. member for Plymouth, and attended by several other members of Parliament. Mr. Cooke (of Gloucester) proposed the following resolution, which was carried:—"That this Association strongly approves "the enactment of the Railways Regulation Act, 1873, but is of "opinion that the power of appeal to the Railway Commissioners, "now understood to be confined to Companies as against other "Companies, should be extended to cases in which private firms "or individuals have well-founded causes of complaint against "Companies, and that a deputation to the Board of Trade be "appointed urging the importance of the foregoing resolution." By a report given elsewhere of the proceedings of the meeting it would seem that Mr. Cooke's resolution, in its original form, proposed that the Board of Trade should be urged to submit to Parliament a Bill to give to "the Railway Commissioners full power "to deal with all questions relating to traffic or tolls as between "the public and Railway Companies," Mr. Cooke ultimately agreeing to adopt the resolution of the "Birmingham Chamber" as "very much resembling his own." They both very much resemble a clause proposed in the House of Commons last Session by Mr. Wait, one of the Members for Gloucester, giving to the Railway Commissioners full power to deal with these questions—so full, indeed, that the Commissioners might wholly disregard the rates and tolls authorised by Parliament on any Railway, allowing instead such sums only as they, in their absolute discretion, should think fit. Not only could they, when any ten persons should propose a scale of rates at which they desired their traffic to be carried by any Railway Company, prescribe the terms on which it should be taken, but they could compel any Company to find engines and carriages, and all other requisite rolling

stock, for the conveyance over its line of any other Company's traffic (at whatever cost), and all this at such rates and tolls, as a remuneration, as the Commissioners might think fit to allow. The rates and tolls, so far as regarded all through traffic (and other traffic would necessarily follow), on the faith of which nearly six hundred millions of money have been spent, would have been repealed by the effect of Mr. Wait's clause, and nothing left but the simple will of the Commissioners, who were to have this absolute power to settle all questions of rates "between the public and the Companies," and the only point they were directed to "consider" was whether the rate they should grant was "a due and reasonable facility in the interest of the public." The picture would be incomplete were it not added that from the decisions of the Commissioners there could be no appeal.

Such was the proposal of Mr. Wait, now revived by the "Associated Chambers of Commerce." It was supported in the House last Session by the votes of Members for large constituencies, such as London, Lambeth, Liverpool, Bristol, Glasgow, Edinburgh, Gloucester, Dublin, Plymouth, Sheffield, and others, but, being opposed by the Government, it was negatived on that occasion. It may well be asked how such a proposal could receive any support at all. It was because the real effect of it was not in any way apparent on its face, and was probably known to few but the official who drew the clause, and that was framed on a modern (but most objectionable) form of Parliamentary drafting—making a new law by reference merely to former Acts, in which alone the operation of the law is set forth, but of which little is given but the title—the old Act being thus incorporated with the new, with a few words of art which no unskilled person is likely to understand. Thus, Mr. Wait's clause proposed that "the sub-sections (from 1 to 9 inclusive) of the 11th section"—that is, of the old Act, "so far as they are applicable, and *mutatis mutandis*, shall apply" to the cases referred to in the new clause. None of the sub-sections were set out, nor was their effect even hinted at in the new clause. All that appeared on the face of it was, that these sub-sections could be found, if looked for, in the "Act for the Regulation of Railways Act, 1873," which was said to enact certain "facilities for the due

" and reasonable receiving, forwarding, and delivering of Rail-way traffic." At the end of the fifth of these sub-sections, however, may be found a half-a-dozen words, of an apparently harmless nature, the effect of which, when applied to Mr. Wait's clause, though it could scarcely be appreciated except by a professional person, is nothing less than I have already stated, and no one acquainted with the subject will venture to deny the accuracy of my statement. Thus, by a side-wind, and a kind of sleight-of-hand legislation, rights of property to a vast extent would have been confiscated behind the backs of the parties interested.

The "title" of a Bill should always refer, in a general way, to the nature of its contents. The title of the Government Bill which was to have contained Mr. Wait's clause was "The Board of Trade Arbitrations, Enquiries, &c. Bill" How could the holders of Railway property suppose that, under the "&c." of such a Bill, such a law could be passed? It may well be, then, as I doubt not that it was, that few, if any, of the hon. Members who voted for Mr. Wait's clause really understood its purport, or would have voted for it if they had. It is high time that this most mischievous and unfair mode of preparing Acts of Parliament should cease. Let us know, at least, what we have to meet.

The Associated Chambers of Commerce, encouraged apparently by the partial success of Mr. Wait last Session, have now adopted his proposal, and are to send a deputation to Government to support it. It is to the Government we owe its rejection last Session, and to them we must again look for the defence of our property. In America something of this kind, it is said, has been done already, where the "Grangers," or Western farmers, in Wisconsin have been able to influence a sufficient number of representatives to carry, in the State Legislatures, a compulsory reduction of Railway fares. How the matter may end is not yet known, as an appeal is pending to a higher tribunal. English critics have called this "nothing less than confiscation," and have declared such a proposal impossible in an English Legislature, for "we are not as the Americans are." We shall see.

In the meantime one thing is clear—if the Government yield to the pressure of the "Associated Chambers of Commerce," and

the Gloucester proposal becomes law, no prudent man will henceforth look to Railways as a provision for his family, and there is an end of Railway property as an investment. If the law on which we relied, and on the belief in the permanence of which we have so lately spent an enormous capital, is to be soon repealed for the benefit of those who are represented by the Chambers of Commerce, why should any other species of realised and tangible property, land for instance, be more secure? Plenty of people, great philosophers among them, will be found to say that the existing land laws ought to be repealed; that land ought to bear a larger proportion of the taxes; and that "in the interest "of the public" it is necessary to revise the conditions on which great estates are now upheld by law to the injury of the public at large.

In the House of Commons little is ever heard on behalf of Railway shareholders as a body. It is true many of their directors have seats there, but constituents are very jealous, and Railway Companies are too much distracted by their rival interests to be sufficiently united for useful action. In no other way can the fact be explained that the Act of 1873, vitally affecting the integrity of Railway property, passed through the second reading without even a single protest. The matter being one of great general interest, I ask the favour of you to insert this letter in your columns. My object is, as a Railway shareholder, and I have no longer any other interest, to warn my brother shareholders—and I would warn also all those who have lent money on Railway debentures—of the danger they are exposed to. Their affairs have come to a crisis which, if not met with more union and vigour than they displayed when they opposed, or were supposed to oppose, the Act of 1873, will end in a result to be deserved only by supineness and inaction.

I am, Sir, your obedient servant,

S. CARTER.

Battle, Sept. 28, 1874.

## III.

*From "THE STANDARD" of October 10, 1874.*

TO THE EDITOR OF "THE STANDARD."

SIR,—The holders of Railway property are much indebted to you for the able article in your paper of the 6th October on the "Grangers' Movement" in the Western States of the American Union, which you justly characterise as "neither more nor less than barefaced confiscation of the worst kind." There is, at this moment, however, a "Grangers' Movement" in England, the chief difference from its American example being that it is not "barefaced," but so masked as not to be intelligible at first sight to any but experts—the more dangerous on that account, and it may not yet have attracted your attention. In the last Session of Parliament a Motion was made in the House of Commons by one of the Members for Gloucester to place in the hands of the Railway Commissioners the power, at the instance of "any ten persons interested;" to allow any scale of rates for through traffic on Railways which such persons might propose and the Commissioners should think fit, without regard to the rates fixed in the various Acts of Parliament, which rates on all the Railways in the kingdom were to be, in effect, totally abrogated and repealed. This proposal was defeated in the House of Commons, but is to be renewed next Session, under the patronage of the Associated Chambers of Commerce, who resolved, at their late meeting at Newcastle on Tyne, to send a deputation to the Government in its support. As I have said, it is not (in one sense at least) "barefaced"—if it had been, and its real meaning had been apparent, such an attempt would never have been repeated in an English House of Commons;—the effect is produced by that side-wind, and sleight-of-hand method of legislation which prevents any ordinary reader from following, or readily apprehending its meaning. That the real effect was no less than I have stated I have shown in a "Letter to Shareholders and Holders of Debentures and Debenture Stock in Railways," of which I enclose a print, and to the accuracy of the view stated in which I pledge a long experience in construing Acts of Parliament. You will

confer a great additional favour on the holders of Railway property if, by inserting this letter in your columns, you will enable me to call their attention to the danger they are exposed to, not only in America but in their own country. If he does not take care "The Investor may," as you say, "some fine day find himself stripped of his property in obedience to some new demand of the Grangers," even in this country.

I am, Sir,

Your obedient Servant,  
S. CARTER.

Battle, Oct. 8.

#### IV.

*From "THE STANDARD" of October 16, 1874.*

#### THE CHAMBERS OF COMMERCE AND THE RAILWAY COMPANIES.

TO THE EDITOR OF "THE STANDARD."

SIR,

My attention having been drawn to a Letter from Mr. S. Carter in "The Standard" of the 10th, referring to a Resolution submitted to the Associated Chambers of Commerce on the subject of rates by Railway Companies, must be my apology for troubling you, as I am desirous the public should be made fully acquainted with the whole question. Mr. Carter seems dreadfully afraid the Legislature will give the public a right to revise the existing rates now charged by Railway Companies for the carriage of goods. Why he should be so afraid I am at a loss to understand, unless they are now unreasonable, and in the interest of the public require revision; and, knowing the Railway Companies monopolise the carrying trade of the country, it may perhaps be reasonable in the interest of the public to inquire whether the goods traffic is not now paying a higher rate in comparison with the passenger traffic rate. But be this as it may, the question which was mooted by Mr. W. H. Wait in the House of Commons was simply this: The Government submitted a Bill to Parliament last Session, now called "The Board

of Trade Arbitration Act," and Mr. Wait's attention having been drawn to section 11 of the Regulation of Railways Act, 1873, which is as follows:—" Whereas it is enacted by section 2 " of the Railway and Canal Traffic Act, 1854, that every Rail- " way Company and Canal Company and Railway and Canal " Company shall, according to their respective powers, afford all " reasonable facilities for the receiving and forwarding and " delivering of traffic upon and from the several Railways and " Canals belonging to or worked by such Companies respectively, " and for the return of carriages, trucks, boats, and other vehicles, " and no such Company shall make or give any undue or " unreasonable preference or advantage to or in favour of any " particular person or Company, or any particular description of " traffic in any respect whatsoever, or shall subject any par- " ticular person or Company, or any particular description of " traffic, to any undue or unreasonable prejudice or disadvantage " in any respect whatsoever, and that every Railway Company " and Canal Company and Railway and Canal Company having " or working Railways or Canals which form part of a con- " tinuous line of Railway or Canal or Railway and Canal com- " munication, or which have the terminus station or wharf " of the one near the terminus station or wharf of the other, " shall afford all due and reasonable facilities for receiving and " forwarding by one of such Railways or Canals all the traffic " arriving by the other without any unreasonable delay, and " without any such preference or advantage, or prejudice or " disadvantage as aforesaid, and so that no obstruction may be " offered to the public desirous of using such Railways or Canals " or Railways and Canals as a continuous line of communication, " and so that all reasonable accommodation may by means of the " Railways and Canals of the several Companies be at all times " afforded to the public in that behalf, that, subject as herein- " after mentioned, the said facilities to be so afforded are hereby " declared to and shall include the due and reasonable receiving, " forwarding, and delivering by every Railway Company and " Canal Company and Railway and Canal Company, at the " request of any such other Company, of through traffic to and " from the Railway or Canal of any other such Company at

"through rates, tolls, and fares," he urged upon the Government that, if one Railway or Canal Company had a right to demand from another Railway Company a through rate, it was but reasonable and fair the public, whose carriers they were, should have a right to demand from a Railway Company a through rate, such rate being in the power of any Railway Company to give, and he asked that the words "or on the application of any number not less than ten persons interested or aggrieved" should be inserted in the clause immediately following the words "at the request of such Company," so that a body of merchants feeling aggrieved with a Railway Company having or working Railways or Canals which form part of a continuous line of Railway or Canal, should have given to them that information which such Company had power to obtain from any other Company so forming a continuous line of Railway communication throughout the country. It will therefore be seen Mr. Wait never attempted to ask the Government to give the Railway Commissioners power to revise the rates now charged. Is it unreasonable that the trader desirous of sending his goods, say from Leeds to Plymouth, should have a right to call upon the Railway Company at Leeds to give him a through rate to Plymouth, so that he might know the full cost of transit? I know that it is now given in most cases in courtesy; what possible objection can there be to give the trader the right of demanding a through rate? The Resolution passed at the Associated Chambers of Commerce was as follows:—"That this Association strongly approves of the enactment of the Railways Regulation Act, 1873, but is of opinion that the power to appeal to the Railway Commissioners, now understood to be confined to Companies as against other Companies, should be extended to cases in which private firms or individuals have well-founded causes of complaint against Companies, and that a deputation to the Board of Trade be appointed urging the importance of the foregoing Resolution." I will not go into the reason why such a Resolution was submitted to the Chambers; sufficient to remark that an attempt had been made by a Railway Company, under an arrangement with another Railway Company, not to book to certain stations which could be reached by both lines.

I think it will be apparent Mr. Wait's proposed insertion of the words in the clause was not an attack upon the rates now charged by Railway Companies, nor is such intended by the Resolution of the Associated Chambers; but, even if it were, is it unreasonable to ask that powers should be given to the Railway Commission to revise the rates as between the public and Railway Companies, seeing, as I have before observed, the carrying trade is entirely in their hands, and surely the interest of both could be fairly and justly protected by the judges appointed under such Commission?

Let me, however, in conclusion, quote from the Report of the Railway and Canal Commission, which I think bears out that neither Mr. Wait nor the Associated Chambers was unreasonable in drawing the attention of Parliament to the question, and urging in the interests of the public that it should have the same information one Company can demand from another. "Through traffic, or traffic which has as its destination a station on some other line than that over which it first passes, was the subject of some of the enactments of the Act of 1854. Railway Companies are there required each in their order to forward through traffic without undue delay, and with all reasonable facilities. It was not, however, clear that either the public or a Railway Company could under that Act require as one of those facilities that such traffic should be forwarded at through rates, and that there should be only one booking and invoicing for the entire route. The Report of the Royal Commission on Railways in 1867, and the Report of the Joint Select Committee on Railway Companies Amalgamation 1872, both contained recommendations to that effect, and these recommendations have to some extent been carried out in the 11th section of the Act of 1873. The public, indeed, are still without compulsory power in the matter; but a Railway Company can now, subject to conditions, require that through traffic to or from places on the line of such Company shall be forwarded at through rates by other Railway Companies."—The Times, which honoured me by noticing the Resolution submitted by me at the Associated Chambers at Newcastle as one of serious moment, appeared to doubt my impartiality upon the question. Not being a merchant or a Railway

shareholder, I would venture to urge my opinion may be fairly considered as impartial, and that the public are reasonably entitled to have this concession granted them, which cannot in any way prejudice the interests of Railway shareholders. I, however, admit that it might prevent Railway Companies from entering into agreements between themselves on questions of through traffic, whereby a monopoly might arise prejudicial to the general interest of traders.

I am, Sir,

Your obedient Servant,

PHILIP COOKE,

Secretary to the Gloucester Chamber of Commerce.

Gloucester, October 14.

## V.

*From "THE STANDARD" of October 21, 1874.*

### THE CHAMBERS OF COMMERCE AND THE RAILWAY COMPANIES.

TO THE EDITOR OF "THE STANDARD."

SIR,

The "Secretary of the Gloucester Chamber of Commerce," in a letter which appears in "The Standard" of the 16th, concludes a statement of the proceedings of the Member for Gloucester in the last Session, relating to Railways, in these words:— "It will, therefore, be seen that Mr. Wait never attempted to "ask the Government to give the Railway Commissioners powers "to revise the rates now charged." Further on he says: Mr. Wait's proposal "was not an attack upon the rates now charged "by Railway Companies, nor is such intended by the resolution "of the Associated Chambers" of Commerce, of which Mr. Cooke himself was the mover. It may also be fairly assumed that, as Mr. Wait is the present Member for Gloucester, and Mr. Cooke the Secretary of the Chamber of Commerce of Gloucester, the views of that gentleman on this subject are correctly stated by Mr. Cooke, who is "desirous that the public should be made "fully acquainted with the whole subject." I am equally de-

sirous; yet so entirely is Mr. Cooke misinformed that I will show you, beyond dispute, that not only did Mr. Wait really ask of Parliament "to give the Railway Commissioners powers to revise "the rates now charged," but such powers as to justify what I stated in my letter in "The Standard" of the 10th, viz. that "the "rates on all the Railways in the kingdom were to be, in effect, "totally abrogated and repealed."

Mr. Cooke sets out at length that part of section 11 of "The "Railways Regulation Act, 1873," which declares that certain "facilities" shall include "through traffic at through rates," and then professes to describe Mr. Wait's motion by saying that he asked that the words "or on the application of any number of "not less than ten persons interested or aggrieved" should be inserted in the clause immediately following the words "at the "request of such Company." According to Mr. Cooke that was all Mr. Wait required, but Mr. Wait also asked (see his motion on 16th May) that "the sub-sections from one to nine inclusive, of the eleventh section, so far as they are applicable, and *mutatis mutandis*, shall apply to the said persons making such application." To this part of Mr. Wait's motion Mr. Cooke does not refer at all, nor does he make any mention whatever of these sub-sections, though they are by far the most important part of section 11; indeed, the first part, which he has transferred to your columns at full length, would have had absolutely no meaning or operation at all except by virtue of these sub-sections, which he has left out. I will supply the omission. By sub-section 1, the ten persons (in place of the Company) "requiring the "traffic to be forwarded shall give written notice of the proposed "through rate (proposed by themselves that is) to the forwarding "Company, stating both its amount and its apportionment" (*i.e.* between the various Companies whose lines are traversed). The Company are to say whether they object; if they do, then by sub-section 4 "the matter shall be referred to the Commissioners "for their decision." By sub-section 5, "the Commissioners "shall consider whether the granting of the rate is a due and "reasonable facility in the interest of the public," and "shall "allow or refuse the rate accordingly." There is no limit to



their power (for the qualification in sub-section 8 is of no practical value at all) and there is no appeal from their decision.

I presume Mr. Cooke's attention was not drawn, by the friend who pointed out to him section 11 of the Act of 1873, to these sub-sections. Mr. Cooke, "not being a merchant or a Railway shareholder," thinks "his opinion may be fairly considered as " impartial, and (a proof, I suppose, of his impartiality) that the " public are reasonably entitled to have this concession granted " them, which cannot in any way prejudice the interests of Rail- " way shareholders." I will test the impartiality of Mr. Cooke. He says "An attack upon the rates now charged by the Railway Companies" was not intended "by the resolution of the Associated Chambers;" let him, now that the real effect of Mr. Wait's motion has been pointed out to him, either show that I am wrong, or request the Associated Chambers to allow him to withdraw the resolution. It would indeed be strange if the "Associated Chambers of Commerce" of England were to be found supporting a measure which involves the virtual repeal of all the Acts of Parliament under which £600,000,000 of money have so lately been spent, and but for a full reliance on the good faith of Parliament in passing which Acts not a mile of Railway would have been made in this kingdom. Chambers of Commerce are understood to have a very different duty from that of urging on the Government a measure which would amount to a confiscation as flagrant as that you so justly denounce as "of the worst kind" in the "Grangers'" movement in America. I inclose for your perusal a very short but most important Act passed in 1871, called "An Act to remove doubts as to the power of Trustees to invest Trust Funds in Debenture Stocks." Upwards of a hundred millions of money are invested in Railway debentures and debenture stocks, but the rates granted by Parliament form the only security. If these are to be abolished, and the absolute and unlimited will of the three Railway Commissioners is to form the only substitute, what is to become of these securities? Mr. Cooke refers, in support of his views, to the "Report of the Joint Committee of both Houses, 1872." Speaking of the "new tribunal" of the Commissioners (section 17), the Report

. . .

says, " It has been proposed to commit to some such tribunal " the revision of the rates and charges of the Companies, but " this cannot be done unless the tribunal is invested with absolute " and arbitrary powers, which is out of the question, or unless " some rules can be laid down by Parliament for its guidance, and " it has been shown how impracticable it is to lay down any such " rules. It is, however, the opinion of the Committee that such a " tribunal should be constituted, and that there are other important " functions which should be entrusted to it. The Report proceeds to describe them, and the "fifth function" is "to see that proper " facilities are given for the forwarding of passengers and goods " under that part of the Railway and Canal Traffic Act, 1854," which relates to the subject. The Report recommends further that such Act should be explained (as it was by the Act of 1873) by enabling one Railway Company to make through rates over the line of another, the Commissioners being referred to as unipes between the Companies in case they do not agree; but a power to settle in this manner, and in exercise of the function so ascribed to them (when the more general power now claimed was absolutely denied), questions which might arise between the Companies themselves, who stand towards each other in the relation of partners, with a common interest in the integrity of common property, is a totally different thing from a power to entertain and dispose of as they think fit all questions of rates between the Companies and any members of the public; such a power would be nothing less than that "revision of rates and "charges" which the Joint Committee of Lords and Commons so emphatically declared to be "out of the question."

Apologising for the length of this letter, which I hope the importance of the subject may excuse,

I remain, Sir, your obedient Servant,  
S. CARTER.

Battle, Oct. 19.

## VI.

*From "THE STANDARD" of October 24, 1874.*

## THE CHAMBERS OF COMMERCE AND THE RAIL-WAY COMPANIES.

TO THE EDITOR OF "THE STANDARD."

SIR,

Mr. Carter has asked me to point out to him either that he is wrong in his assertion that Mr. Wait asked Parliament to give the Railway and Canal Commission power to revise the rates of Railway Companies, "without regard to the rates fixed in the various Acts of Parliament, which rates on all the Railways in the kingdom were to be, in effect, totally abrogated and repealed," or to withdraw the Resolution submitted and approved at the meeting of the Associated Chambers; and he complains that I did not quote the sub-sections of the 11th section of the Railway and Canal Traffic Act, 1873. The sub-sections to which he refers are as follows:—

" 1. The Company requiring the traffic to be forwarded shall give written notice of the proposed through rate to each forwarding Company, stating both its amount and its apportionment, and the route by which the traffic is proposed to be forwarded.

" 2. Each forwarding Company shall, within the prescribed period after the receipt of such notice, by written notice, inform the Company requiring the traffic to be forwarded whether they agree to the rate and route; and, if they object to either, the grounds of the objection.

" 3. If at the expiration of the prescribed period no such objection has been sent by any forwarding Company the rate shall come into operation at such expiration.

" 4. If an objection to the rate, or route, has been sent within the prescribed period the matter shall be referred to the Commissioners for their decision.

" 5. If an objection be made to the granting of the rate, or to the route, the Commissioners shall consider whether the granting of the rate is a due and reasonable facility in the interest of the public, and whether, having regard to the circumstances, the route proposed is a reasonable route, and shall allow or refuse the rate accordingly.

" 6. If the objection be only to the apportionment of the rate the rate shall come into operation at the expiration of the prescribed period, but the decision of the Commissioners as to its apportionment shall be retrospective; in any other case the operation of the rate shall be suspended until the decision is given.

" 7. The Commissioners, in apportioning the through rate, shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance, or working of the route, or any part of the route, as well as any special charges which any Company may have been entitled to make in respect thereof.

" 8. It shall not be lawful for the Commissioners in any case to compel any Company to accept lower mileage rates than the mileage rates which such Company may for the time being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route.

" 9. The prescribed period mentioned in this section shall be ten days, or such longer period as the Commissioners may from time to time by general order prescribe."

Mr. Carter says Mr. Wait's motion was to place in the hands of the Railway Commissioners the power, at the instance of any ten persons interested, to allow any scale of rates for through traffic on Railways which such persons might propose and the Commissioners should think fit, without regard to the rates fixed in the various Acts of Parliament, which rates on all the Railways in the kingdom were to be, in effect, totally abrogated and repealed," because Mr. Wait included in his motion to the House that the sub-sections of section 11, from one to nine inclu-

sive, so far as they are applicable, and *mutatis mutandis*, should apply to the said persons making such application, and he quotes sub-section 1.

I am at a loss to understand how he can make that sub-section applicable to persons, seeing such persons have no rates to give. A rate must come from a Company, or persons who have a legal right to make or give a rate. I do not understand Mr. Carter when he says sub-section 8 is of no practical value. It appears to me to be of great practical value to Railway Companies, by making it unlawful for the Commissioners to abrogate or repeal rates that Railway Companies have a right to charge. Further, as regards Railway Companies (*inter se*), does Mr. Carter mean to say that a Railway Company has a right to call upon the Commissioners to revise the rates of any other Railway Company? Surely, the jurisdiction of the Commissioners is one of apportionment of rates on the through traffic, in connection with facilities for the carriage of such traffic.

Yours obediently,  
**PHILIP COOKE**, Secretary to the Chamber  
of Commerce, Gloucester.

Gloucester, Oct. 22.

## VII.

*From "THE STANDARD" of October 31, 1874.*

### THE CHAMBERS OF COMMERCE AND THE RAILWAY COMPANIES.

TO THE EDITOR OF "THE STANDARD."

SIR,

In "The Standard" of to-day Mr. Philip Cooke, the Secretary of the Gloucester Chamber of Commerce, answers my statement as to the effect of Mr. Wait's clause, in these words— "I am at a loss to understand how he (Mr. Carter) can make

" that sub-section (1) applicable to persons, seeing such persons " have no rates to give. A rate must come from a Company, or " persons who have a legal right to make or give a rate."

With your permission I will remove Mr. Cooke's difficulty.

The existing law, "The Regulation of Railways Act, 1873," requires that certain "facilities" for the receiving and forwarding of traffic at through rates shall be afforded by every Railway Company "at the request of any other such Company," and Mr. Wait's Clause proposed to "amend and enlarge" this law, by adding, after the word "Company," "or on the application of any number of not less than ten persons interested or aggrieved," "and the sub sections from 1 to 9 inclusive of the 11th section, so far as they are applicable, and *mutatis mutandis*, shall apply to the said persons making such application." "The Company," therefore, in sub-section (1) would have to be changed into "the persons," "requiring the traffic to be forwarded," and they, instead of the Company, would have to "give written notice of the proposed through rate to each forwarding Company, stating both its amount and apportionment," that is to say, the rate at which they required their traffic to be carried. Such is the effect of *mutatis mutandis*, and thus sub-section (1) would be made applicable to "persons." Mr. Cooke adds, "seeing such persons have no rates to give;" but their business is not to give, but to demand, the rate they require from the Company, and, if the Company object, then the Commissioners are to "refuse or allow the rate" so demanded, and the three Commissioners would be, to use Mr. Cooke's words, "persons who have a legal right to make or give a rate."

I am not surprised that Mr. Cooke should be at a loss to understand the hidden operation of this sleight-of-hand legislation. He does not agree with me as to sub-section 8, and thinks it of "great practical value to Railway Companies." It declares that the Commissioners are "not to compel any Company to accept lower mileage rates than they may, for the time being, be legally charging for the like traffic, carried by a like mode of transit, on any other line of communication between the same

" points, being the points of departure and arrival of the through " route." This provision, when translated into English, means that, on a route compounded of the lines of two Companies, the rates shall not be less, under certain circumstances, than on a competing line owned by one of the two Companies, if there be such a line. But in cases where the particular circumstances do not happen to exist, or where there is no competing line, subsection 8 does not apply. It can be of but very limited application, and in my opinion is of little practical value.

Mr. Cooke concludes by a pointed question :—" As regards " Railway Companies, *inter se*, does Mr. Carter mean to say that " a Railway Company has a right to call upon the Com- " missioners to revise the rates of any other Railway Com- " pany? Surely," he adds, " the jurisdiction of the Commis- " sioners is one of apportionment of rates on through traffic " in connection with facilities for the conveyance of such traffic " No wonder Mr. Cooke is incredulous when I tell him the real extent of the powers of the Commissioners. It is nevertheless true that a Railway Company has the right to call upon the Commissioners to revise the rates of any other Railway Company, for they may at the instance of one Railway Company " allow " over the line of any other any scale of rates whatever which they think fit, without regard to the rates which the Companies have a right to charge under their Acts, and to compel them to carry the traffic (perhaps of a rival) at rates which may turn out unproductive, or even ruinous. Thus the Commissioners might, without at all intending it, ruin any Railway Company in the kingdom, but in no case is there any appeal from their decision. There are many who, like Mr. Cooke, will find it difficult to believe in the existence of this monstrous power.

I am, Sir, your obedient servant,

S. CARTER.

Battle, Oct. 24.

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## VIII.

*From the "PALL MALL GAZETTE" of September 15, 1874.*

### THE ATTACK ON THE AMERICAN RAILWAYS.

TO THE EDITOR OF "THE PALL MALL GAZETTE."

SIR,

In the article headed "The Attack on the American Railways" in your paper of the 8th of September, you refer to the proposal of the "Granges" in America that the State Legislatures should now settle, after the Railways have been made, what are "just and reasonable" rates for "carrying the farmers' produce, and the work must be done at those rates, whatever may happen to the owners of the roads." You say, with great truth, "the policy of the Granges is nothing less than confiscation," adding "it would be impossible to propose in an English Legislature the reduction of the minimum rates fixed by Act of Parliament, because the farmers, or any other people, thought their business could not be made to pay while those rates were maintained." You are apparently not aware that what you deem impossible was done in our House of Commons last Session. On the 18th of May a proposal was made by the honourable Member for Gloucester (Mr. Wait) that, in future, the rates fixed by Act of Parliament on every Railway in the kingdom should, in all cases of through traffic, be reducible to such amounts as the three Railway Commissioners lately appointed should from time to time choose to allow; any scale of new rates, without reference to the rates fixed in the Acts, might be proposed by any ten persons "interested or aggrieved;" and the Commissioners were to allow such a scale as they might think "a due and reasonable facility in the interest of the public." There was to be no limit to their power, and no appeal from their decision. This proposal, though negatived on a division, was supported by fifty-one Members of the House, including the representatives of some of the

largest and most populous cities in England. There is a disagreeable similarity between the American proceeding which you so justly condemn and the English proposal which you have hitherto thought impossible. The remarks with which you conclude your article are just as applicable to this country as to America. "In all quarters doctrines are propounded which, if not generally accepted, are listened to with dangerous readiness, that amount to neither more nor less than confiscation without compensation. "In these circumstances," you say, "we cannot wonder if English investors in American Railway securities begin to be a little anxious about their property, the value of which must fall in the market rapidly, and fatally, if the policy of the Granges should appear likely to influence the next Presidential election." I take the liberty of reproducing these remarks because it is impossible to find fitter terms in which to appeal to the investors in English Railways, who may well be "a little anxious about their property" if the policy of which the Member for Gloucester is the mouthpiece should appear likely to influence electors for great cities in England. My advice to investors in English Railways is to look at home. There are Granges here as well as in America, and the proposal which appeared impossible to you is sure to be made again next Session.

I am, Sir, your obedient Servant,  
A SHAREHOLDER IN ENGLISH RAILWAYS.

September 12.

## IX.

*From "THE PALL MALL GAZETTE" of October 15, 1874.*

### THE "GRANGERS'" ATTACK ON ENGLISH RAILWAYS.

TO THE EDITOR OF "THE PALL MALL GAZETTE."

SIR,

You were, I believe, the first to call public attention in this country to the "great Wisconsin Railroad case," which, by

